IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

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S.B. Sales Tax Revision Petition No. 78/2006

Assistant Commercial Taxes Officer,
Anti Evasion-I, Zone-I, Jaipur

Versus

M/s. Vishesh Agarbatti Udyog,
356, Adarsh Nagar, Jaipur

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Date of order :: September 05, 2007

PRESENT
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. R.B. Mathur for the petitioner-Revenue
Mr. R.C. Shah and Rajeev Surana for the respondent-assessee

BY THE COURT:

1. This revision petition is directed against the order of the Tax Board dated 08.02.2002, whereby the Tax Board allowed the appeal of the assessee and found that the goods in question, namely, Agarbatti Oil, purchased by the respondent assessee, a registered dealer, against 'C' Forms, were not brought within the State against false or forged documents and therefore, the

penalty under Section 78(5) of the Act could not be imposed upon the respondent assessee.

2. The Tax Board giving its detailed order found that as a matter of fact, the mistake in taking the goods to the Vishwakarma Industrial Area in Jaipur arose on account of wrong telephone number given on the envelope containing the concerned bill and bilty and since the goods were checked in Vishwakarma Industrial Area, the learned assessing authority raised a suspicion that the goods were being brought within the State without proper documents. However, upon enquiry from the two concerned industries of Vishwakarma Industrial Area, namely, M/s. Supreme Snuffery and M/s. Swami Fragrance, both the concerned persons denied having any relation with the said goods in question and they had also denied that they had any transaction for purchase of these goods with the respondent assessee M/s. Vishesh Agarbatti Udyog. Therefore, the Tax Board found that it was a case of mistake emanating from the wrong telephone number on the envelope and there was no malafide intention on the part of the respondent assessee. Admittedly, the invoice and bilty in question contained the full name and address of the respondent

assessee at 351, Adarsh Nagar, Jaipur who participated in the penalty proceedings and has also contested the appeals upto the Tax Board. The goods in question were not delivered to anybody in Vishwakarma Industrial Area, Jaipur. The wrong telephone number misled the driver of the truck to Vishwakarma Industrial Area, where it was checked by the assessing authority.

3. The Tax Board being a final fact finding body, has recorded a well-reasoned finding on the basis of the available material that the goods in question were not brought within the State with false or forged documents and therefore, no penalty under Section 78 (5) of the Act could be imposed. Therefore, in the opinion of this court, this being a finding of fact, no question of law arises in the present matter requiring consideration under Section 86 of the Act and the present revision petition is devoid of any merit.

4. Consequently, this revision petition is dismissed with no order as to costs.

(Dr.VINEET KOTHARI),J.

Pramod
Item No. 14